

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

AMAZON.COM, INC. AND AMAZON
DATA SERVICES, INC.,

Plaintiffs,

v.

Case No. 1:20-CV-484-RDA-TCB

WDC HOLDINGS LLC D/B/A NORTHSTAR
COMMERCIAL PARTNERS, BRIAN
WATSON, STERLING NCP FF, LLC,
MANASSAS NCP FF, LLC, NSIPI
ADMINISTRATIVE MANAGER, NOVA
WPC LLC, WHITE PEAKS CAPITAL LLC,
VILLANOVA TRUST, CARLETON
NELSON, CASEY KIRSCHNER, ALLCORE
DEVELOPMENT LLC, FINBRIT
HOLDINGS LLC, CHESHIRE VENTURES
LLC, 2010 IRREVOCABLE TRUST, SIGMA
REGENERATIVE SOLUTIONS LLC,
CTBSRM INC, RODNEY ATHERTON,
DEMETRIUS VON LACEY, RENRETS
LLC,

Defendants.

800 HOYT LLC,

Intervening Interpleader
Plaintiff, Intervening
Interpleader Counter-Defendant,

v.

BRIAN WATSON, WDC HOLDINGS, LLC,
BW HOLDINGS, LLC,

Interpleader Defendants,

And

AMAZON.COM, INC. and AMAZON DATA
SERVICES, INC.,
Interpleader Defendants,
Interpleader Counter-Plaintiffs.

**MOTION TO VACATE ORDER GRANTING AMAZON’S MOTION FOR
DETERMINATION THAT CERTAIN DOCUMENTS AND INFORMATION ARE NOT
PROTECTED BY ATTORNEY-CLIENT OR WORK PRODUCT PRIVILEGES**

Defendant Rodney Atherton, by and through undersigned counsel, hereby files this Motion to Vacate the October 3, 2022 Order Granting Plaintiffs’ Motion for Determination that Certain Documents and Information are Not Protected by Attorney-Client or Work Product Privileges, finding that the “crime-fraud exception vitiates any privileges asserted based on an alleged attorney-client relationship between Defendant Rodney Atherton and his co-Defendants Demetrius Von Lacey and Sigma Regenerative Solutions.” Dkt. 1060.

On September 29, 2022, after receiving written confirmation from Mr. Von Lacey that he was waiving privilege for communications before April 1, 2020 pertaining to the transactions and entities at issue in this litigation, Plaintiffs withdrew their Motion for Determination that Certain Documents and Information are Not Protected by Attorney-Client or Work Product Privileges. Dkt. 1047. Based upon the agreement with Plaintiffs that the Motion was being withdrawn, Defendant Atherton did not file a brief in opposition to the motion, nor was the matter heard on the merits. Accordingly, Mr. Atherton respectfully requests that the October 3, 2022 Order on the Motion be vacated.

Counsel for Plaintiffs have authorized the undersigned counsel to represent to the Court that they take no position on this Motion to Vacate. In further support of this Motion, Mr. Atherton relies upon his Brief in Support of Motion to Vacate the October 3, 2022 Order Granting Plaintiffs’ Motion for Determination that Certain Documents and Information are Not Protected by Attorney-Client or Work Product Privileges, filed simultaneously herewith.

RODNEY ATHERTON

By Counsel

/s/ Julie S. Palmer

Julie S. Palmer (VSB No. 65800)
Angela MacFarlane (VSB No. 87776)
Caroline L. Callahan (VSB No. 88497)
Counsel for Rodney Atherton
Harman, Claytor, Corrigan & Wellman
P.O. Box 70280
Richmond, Virginia 23255
804-747-5200 - Phone
804-747-6085 - Fax
jpalmer@hccw.com
amacfarlane@hccw.com
ccallahan@hccw.com

C E R T I F I C A T E

I hereby certify that a true copy of the foregoing was sent via email this 6th day of October, 2022 to:

David William Casazza, Esq.
Michael Robert Dziuban, Esq.
Amanda Jenkins Sterling, Esq.
Elizabeth P. Papez, Esq.
Patrick F. Stokes, Esq.
Jason J. Mendro, Esq.
Claudia M. Barrett, Esq.
Gibson Dunn & Crutcher LLP
1050 Connecticut Avenue, NW
Washington, DC 20036-5306
202-955-8500 - Phone
dcasazza@gibsondunn.com
mdziuban@gibsondunn.com
asterling@gibsondunn.com
epapez@gibsondunn.com
pstokes@gibsondunn.com
jmendro@gibsondunn.com
cbarrett@gibsondunn.com

Veronica Smith Moye, Esq.
Gibson Dunn & Crutcher LLP
2001 Ross Avenue
Suite 2100
Dallas, TX 75201
214-698-3100 - Phone
214-571-2936 - Fax
VMoye@gibsondunn.com
Counsel for Amazon.com, Inc. and Amazon Data Services, Inc.

George R. Calhoun, Esq.
Jeffrey Robin Hamlin, Esq.
James M. Trusty, Esq.
Ifrah Law, PLLC
1717 Pennsylvania Avenue, NW
Suite 650
Washington, DC 20006
202-524-4143 - Phone
202-524-4142 – Fax
george@ifrahlaw.com
jhamlin@ifrahlaw.com
jtrusty@ifrahlaw.com

Stan Garnett, Esq.
Amanda Kristine Houseal, Esq.
Justin L. Cohen, Esq.
Leah Mae Regan-Smith, Esq.
Neil Singh Sandhu, Esq.
Sara Reid Bodner, Esq.
Brownstein Hyatt & Farber PC
410 17th Street
22nd Floor
Denver, CO 80202
303-223-1100 - Phone
303-223-1111 - Fax
Sgarnett@bhfs.com
ahouseal@bhfs.com
jcohen@bhfs.com
lreadgansmith@bhfs.com
nsandhu@bhfs.com
sbodner@bhfs.com
*Counsel for Defendants Brian Watson, WDC Holdings, LLC, NSIPI
Administrative Manager, Sterling NCP FF, LLC, Manassas NCP FF, LLC*

Casey Kirschner
635 N. Alvarado Lane
Plymouth, MN 55447
Pro se

Adam Ryan Smart, Esq.
Burr & Forman LLP
50 North Laura Street
Suite 3000
Jacksonville, FL 32202
904-232-7200 - Phone
904-232-7201 - Fax
asmart@burr.com

Alex Little, Esq.
Emily Harper Mack, Esq.
Burr & Forman LLP
222 Second Avenue South
Suite 2000
Nashville, TN 37201
615-724-3200 - Phone
615-724-3290 - Fax
emack@burr.com
Alex.Little@burr.com

Rachel Ross Friedman, Esq.
Burr & Forman LLP
420 North 20th Street
Suite 3400
Birmingham, AL 35203
205-458-5267 - Phone
205-458-5100 - Fax
rfriedman@burr.com
Counsel for Cheshire Ventures, LLC

Aaron Gregory McCollough, Esq.
McGuire Woods LLP
77 W. Wacker Drive
Suite 4100
Chicago, IL 60601
312-849-8256 - Phone
312-698-4522 - Fax
amccollough@mcguirewoods.com
Counsel for Receiver Mark Roberts

Michael Ross MacPhail, Esq.
Alison Morgan Agnew, Esq.
Faegre Drinker Biddle & Reath LLP
1144 15th Street
Suite 3400
Denver, CO 80202
303-607-3500 - Phone
303-607-3600 - Fax
michael.macphail@faegredrinker.com
alison.agnew@faegredrinker.com
Counsel for Intervenor 800 Hoyt, LLC

Charles F. Conolly, Esq.
Akin Gump Strauss Hauer & Feld LLP
2001 K Street N.W.
Washington, DC 20006
202-887-4000 - Phone
202-887-4288 - Fax
cconnolly@akingump.com

JD Thomas, Esq.
Waller
Nashville City Center
511 Union Street, Suite 2700
Nashville, TN 37219
615-850-8682 - Phone
jd.thomas@wallerlaw.com

Julie S. Palmer